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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,377	03/16/2001	Matthew M. Graf	PA-5239-RFB	8787

9896 7590 10/23/2002

COOK GROUP PATENT OFFICE  
P.O. BOX 2269  
BLOOMINGTON, IN 47402

EXAMINER
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HOOK, JAMES F


ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

GN

<b>Office Action Summary</b>	Application No. <b>09/810,377</b>	Applicant(s) <b>Graf et al.</b>	
	Examiner <b>James F. Hook</b>	Art Unit <b>3752</b>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Jul 29, 2002
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4-6, and 10-16 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6, and 10-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 6) <input type="checkbox"/> Other:  |

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 10, 13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (270) in view of Jansen. The patent to Parker discloses all of the recited structure with the exception of using fluorinated ethylene propylene as the polymeric material. The patent to Jansen discloses that it is known in the art that fluorinated ethylene propylene can be used as sleeves in catheters in place of polyamides and polyolefins. It would have been obvious to one skilled in the art to modify the polymeric material in Parker to be made of any suitable plastic for use with catheters including fluorinated ethylene propylene as suggested by Jansen as such is a known equivalent plastic that is used with catheters.

3. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (270) in view of Hopkins and Jansen. The patent to Parker discloses all of the recited structure with the exception of stating the size of the tungsten particles used and using FEP for the catheter. The patent to Hopkins discloses the recited use of radiopaque materials such as

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tungsten in a catheter, where it is known that the particles can be as small as 0.9 microns, which suggests they can be any size larger than 0.9 microns also. It would have been obvious to one skilled in the art to modify the tungsten in Parker to be of a size at least as small as 0.9 microns and larger as such are known particle sizes of tungsten used in radiopaque catheters as suggested by Hopkins. The patent to Jansen discloses that it is known in the art that fluorinated ethylene propylene can be used as sleeves in catheters in place of polyamides and polyolefins. It would have been obvious to one skilled in the art to modify the polymeric material in Parker to be made of any suitable plastic for use with catheters including fluorinated ethylene propylene as suggested by Jansen as such is a known equivalent plastic that is used with catheters.

4. Claims 5, 6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (270) in view of Jansen as applied to claims 1, 2, 4, 10, 13, and 16 above, and further in view of Hopkins. The patent to Parker as modified discloses all of the recited structure with the exception of stating the size of the tungsten particles used. The patent to Hopkins discloses the recited use of radiopaque materials such as tungsten in a catheter, where it is known that the particles can be as small as 0.9 microns, which suggests they can be any size larger than 0.9 microns also. It would have been obvious to one skilled in the art to modify the tungsten in Parker as modified to be of a size at least as small as 0.9 microns and larger as such are known particle sizes of tungsten used in radiopaque catheters as suggested by Hopkins.

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*Conclusion*

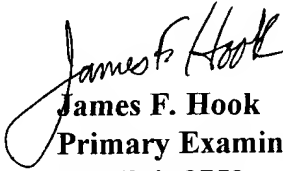
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Schaible disclosing state of the art catheters with radiopaque materials therein.

*Response to Arguments*

6. Applicant's arguments with respect to claims 1, 2, 4-6, and 10-16 have been considered but are moot in view of the new ground(s) of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Hook whose telephone number is (703) 308-2913.

J. Hook  
October 21, 2002

  
**James F. Hook**  
**Primary Examiner**  
**Art Unit 3752**